

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6932

BILL NUMBER: HB 1225

NOTE PREPARED: Jan 25, 2012

BILL AMENDED: Jan 25, 2012

SUBJECT: Septic Tanks and Sewer Systems.

FIRST AUTHOR: Rep. Lehman

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill defines the term “sewage disposal system” to include septic tanks, soil absorption systems, holding tanks, cesspools, and privies. The bill also defines a failing sewage disposal system.

The bill provides that certain not-for-profit sewer utilities (sewer utility) may require a property owner to discontinue use of a sewage disposal system and connect to the sewer utility's sewer system only if the sewage disposal system is failing. (Under current law, a property owner is exempt from connecting to a sewer system if the source of the sewage is more than 500 feet from the connection point or if the property owner's septic tank soil absorption system is less than ten years old and satisfies other conditions.) The bill also requires the sewer utility to give the property owner 180 days to repair or replace the sewage disposal system.

The bill provides that a district may not require a property owner to connect to the district's sewer system under certain conditions for five years. It further allows the property owner to apply for additional and unlimited five-year extensions.

The bill specifies certain membership requirements for the board of trustees of a regional sewage district (district). It also requires the board of a district that conducts a public hearing to allow persons present an opportunity to be heard.

The bill permits a property owner who connects to a sewer system to provide labor and materials to accomplish the connection.

The bill provides that if a district uses a flat charge to determine a rate or charge for a waterworks or sewage works, the district must provide a written summary of how the flat charge was calculated.

The bill allows a campground or youth camp to be billed for sewage service at a flat rate or by installing a meter to measure the actual amount of sewage. It authorizes a board to exercise reasonable discretion in temporarily adjusting fees to reflect a user's nonuse of water, sewer, or solid waste services. It also provides that a board may bill and collect rates and charges only for services actually provided.

The bill specifies that district rates, fees, and charges assessed against land or a building are liens that do not attach and must be collected by a civil action.

The bill requires a health officer to verify the existence of unlawful conditions that transmit, generate, or promote disease before ordering their abatement.

The bill provides that a person who provides false information to a health officer commits a Class C infraction.

The bill also specifies certain systems appurtenant to private residences to which a county ordinance imposing building standards does not apply.

It makes technical corrections.

Effective Date: July 1, 2012.

Explanation of State Expenditures: In the event that IDEM determines that local governmental units have not developed plans that provide for adequate wastewater treatment, the bill requires that IDEM must hold a public hearing before requiring the local government units to establish or join a regional sewage district. Cost to the IDEM would depend on individual circumstances and the number of public hearings to be held.

Explanation of State Revenues: (Revised) *Penalty Provision:* The bill establishes a Class C infraction; knowingly or intentionally providing false information upon which a health officer relies in issuing an abatement order. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

Explanation of Local Expenditures: (Revised) *District Trustees:* The bill requires the membership of a district board of trustees include an elected official representing a political subdivision that has territory within the district. Other trustees are required to be a ratepayer in the district or a resident of the district if no ratepayers are available.

(Revised) *Rate Charges:* The bill requires a district board to summarize the method used to determine the amount of a flat charge used as a factor in determining a rate or charge for a sewage works. A copy of the one-page summary is to be provided to each person who is required to pay the charge and who requests a paper copy of the summary. The impact of this provision should be minor and will depend on local circumstances and action.

The bill provides that liens for a sewer utility's rates, fees, or charges made do not attach and must be collected and enforced by civil action. The bill further provides that the party prevailing in any civil action filed under this provision is entitled to recover the costs of the action including reasonable attorney fees as determined by

the court. The impact of this provision would depend on local circumstances.

(Revised) *Appurtenances Excluded from County Building Ordinances*: Counties would be allowed to adopt ordinances that may require an individual that constructs a sewage disposal system to submit schematics of the system to the local health department and provide that such a sewage disposal system may not be placed into operation until the individual obtains at their own expense a certification from the health department that the system is functioning satisfactorily. The impact of this provision would depend on local actions.

(Revised) *Local Health Officer Complaint Process*: The bill requires that local health departments document each complaint of unlawful conditions to include specific details to allow a department to verify the existence of conditions that are the subject of the complaint.

Explanation of Local Revenues: (Revised) *Sewer Systems Connection Requirements*: This provision does not apply to Marion County. The proposal could decrease the number of property owners who connect to a sewer system. A decrease in the number of owners who connect would reduce the amount of revenue generated for the sewer district. The specific impact is indeterminable.

Appurtenances Excluded from County Building Ordinances: The provision may have an indeterminate impact on permit revenue.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

Rate Charges: Adjusting or changing rates would have an impact on the amount of revenue generated for the district. The impact will depend on local circumstances and action.

State Agencies Affected: IDEM, Indiana State Department of Health.

Local Agencies Affected: Counties, regional sewer districts, local health departments, trial courts, local law enforcement agencies.

Information Sources:

Fiscal Analyst: Kathy Norris, 317-234-1360.